

	AVOIDED COST DISCOUNTS	
	<u>RECURRING</u>	<u>NON-RECURRING</u>
<u>EXCHANGE ACCESS LINES</u>		
LifeLine/LinkUp America Services	19.8%	19.8%
Residence 1 Party	19.8%	19.8%
Residence Measured	19.8%	19.8%
<u>EXPANDED LOCAL CALLING</u>		
Expanded Local Calling (Mandatory)	19.8%	19.8%
Mandatory Extended Area Calling Service (EACS)- 1 Party	19.8%	19.8%
Mandatory EACS - One element measured, 1 Party	19.8%	19.8%
<u>CALL MANAGEMENT SERVICES</u>		
Auto Redial	19.8%	19.8%
Call Blocker	19.8%	19.8%
Call Forwarding	19.8%	19.8%
Call Forwarding - Busy Line	19.8%	19.8%
Call Forwarding - Busy Line/Don't Answer	19.8%	19.8%
Call Forwarding - Don't Answer	19.8%	19.8%
Call Return	19.8%	19.8%
Call Trace	19.8%	19.8%
Call Waiting	19.8%	19.8%
Calling Name	19.8%	19.8%
Calling Number	19.8%	19.8%
ComCall [®]	19.8%	19.8%
Personalized Ring (1 dependent number)	19.8%	19.8%
Personalized Ring (2 dependent numbers - 1st number)	19.8%	19.8%
Personalized Ring (2 dependent numbers - 2nd number)	19.8%	19.8%
Priority Call	19.8%	19.8%
Remote Access to Call Forwarding	19.8%	19.8%
Selective Call Forwarding	19.8%	19.8%
Simultaneous Call Forwarding	19.8%	19.8%
Speed Calling 8	19.8%	19.8%
Speed Calling 30	19.8%	19.8%
Three Way Calling	19.8%	19.8%
<u>DIRECTORY ASSISTANCE SERVICES</u>	19.8%	19.8%
<u>ISDN</u>	19.8%	19.8%

* Some products not available in all jurisdictions.

Resale products available subject to state and federal rules, regulations and tariffs.

	AVOIDED COST DISCOUNTS	
	<u>RECURRING</u>	<u>NON-RECURRING</u>
<u>OTHER</u>		
Bundled Telecommunications Services	19.8%	19.8%
Customer Alerting Enablement	19.8%	19.8%
Hot Line	19.8%	19.8%
Local Operator Assistance Service	19.8%	19.8%
Promotions (greater than 90 days)	19.8%	19.8%
Preferred Number Service	19.8%	19.8%
Toll Restriction	19.8%	19.8%
TouchTone	19.8%	19.8%
Voice Dial	19.8%	19.8%
Warm Line	19.8%	19.8%
<u>TOLL</u>		
Home 800 sm	19.8%	19.8%
IntraLATA MTS	19.8%	19.8%
Toll Billing Exception	19.8%	19.8%
900 Call Restriction	19.8%	19.8%
<u>OPTIONAL TOLL CALLING PLANS</u>		
1+ SAVER sm	19.8%	19.8%
1+ SAVER Direct sm	19.8%	19.8%
Circle Saver	19.8%	19.8%
Corridor Optional Saver	19.8%	19.8%
Extended Community Saver	19.8%	19.8%
<u>NON-TELECOMMUNICATION SERVICES</u>		
Bill Plus	5.0%	5.0%
Connections with Terminal and Communications Equip.		
Consolidated Billing	5.0%	5.0%
Construction Charges		
Company Initiated Suspension and Restoral Service	0.0%	0.0%
Customer Initiated Suspension and Restoral Service	0.0%	0.0%
Enhanced Directory Listings	19.8%	19.8%

* Some products not available in all jurisdictions.

Resale products available subject to state and federal rules, regulations and tariffs.

	AVOIDED COST DISCOUNTS	
	<u>RECURRING</u>	<u>NON-RECURRING</u>
<u>EXCHANGE ACCESS LINES</u>		
Business 1 Party	19.8%	19.8%
Business - Multi-Line Hunting	19.8%	19.8%
Semi Public Coin Telephone Service	19.8%	19.8%
Semi Public Coinless Telephone Service	19.8%	19.8%
Semi Public Coinless - Outward only	19.8%	19.8%
Semi Public Outgoing Only/1 Way Originating only	19.8%	19.8%
<u>EXPANDED LOCAL CALLING</u>		
Expanded Local Calling (Mandatory)	19.8%	19.8%
Mandatory Extended Area Calling Service (EACS)- 1 Party	19.8%	19.8%
Mandatory EACS - Hotel/Motel Measured Trunk	19.8%	19.8%
Mandatory EACS - Multi-Line Hunting	19.8%	19.8%
Mandatory EACS - PBX Trunk	19.8%	19.8%
Mandatory EACS - Semi Public - 1 Party	19.8%	19.8%
<u>CALL MANAGEMENT SERVICES</u>		
Auto Redial	19.8%	19.8%
Call Blocker	19.8%	19.8%
Call Forwarding	19.8%	19.8%
Call Forwarding - Busy Line	19.8%	19.8%
Call Forwarding - Busy Line/Don't Answer	19.8%	19.8%
Call Forwarding - Don't Answer	19.8%	19.8%
Call Return	19.8%	19.8%
Call Trace	19.8%	19.8%
Call Waiting	19.8%	19.8%
Calling Name	19.8%	19.8%
Calling Number	19.8%	19.8%
ComCall [®]	19.8%	19.8%
Personalized Ring (1 dependent number)	19.8%	19.8%
Personalized Ring (2 dependent numbers - 1st number)	19.8%	19.8%
Personalized Ring (2 dependent numbers - 2nd number)	19.8%	19.8%
Priority Call	19.8%	19.8%
Remote Access to Call Forwarding	19.8%	19.8%
Selective Call Forwarding	19.8%	19.8%
Simultaneous Call Forwarding	19.8%	19.8%
Speed Calling 8	19.8%	19.8%
Speed Calling 30	19.8%	19.8%
Three Way Calling	19.8%	19.8%

* Some products not available in all jurisdictions.

Resale products available subject to state and federal rules, regulations and tariffs.

	AVOIDED COST DISCOUNTS	
	<u>RECURRING</u>	<u>NON-RECURRING</u>
<u>DID</u>		
DID (First Block of 100 - Category 1)	19.8%	19.8%
DID (First Block of 10 - Category 1)	19.8%	19.8%
DID (Ea. adl. block of 10 after first 10 - Category 1)	19.8%	19.8%
DID (Ea.adl. block of 100 after first 100 - Category 2)	19.8%	19.8%
DID (Ea.adl. block of 10 assigned over 1st 100 - Category 2)	19.8%	19.8%
DID (with Mutlifrequency)	19.8%	19.8%
DID (with Dual-Tone Multifrequency)	19.8%	19.8%
DID (1st 10 Trunks or access lines)	19.8%	19.8%
DID (11th thru 50th trunk or network access line)	19.8%	19.8%
DID (51st trunk or network access line)	19.8%	19.8%
<u>TRUNKS</u>		
Analog Trunks	19.8%	19.8%
Digital Trunks	19.8%	19.8%
<u>AIN</u>		
Area Wide Networking	19.8%	19.8%
Caller Intellidata [®]	19.8%	19.8%
Disaster Routing Service	19.8%	19.8%
Intelligent Redirect sm	19.8%	19.8%
Positive ID	19.8%	19.8%
<u>OTHER</u>		
Bundled Telecommunications Services	19.8%	19.8%
Busy Out Arrangement	19.8%	19.8%
Customer Alerting Enablement	19.8%	19.8%
Hot Line	19.8%	19.8%
Hunting	19.8%	19.8%
Local Operator Assistance Service	19.8%	19.8%
Message Register Equipment	19.8%	19.8%
Night Number associated with Telephone Number	19.8%	19.8%
Night Number associated with a Terminal	19.8%	19.8%
Promotions (greater than 90 days)	19.8%	19.8%
Telebranch [®]	19.8%	19.8%
Toll Restriction	19.8%	19.8%
TouchTone	19.8%	19.8%
Voice Dial	19.8%	19.8%
Warm Line	19.8%	19.8%
<u>ISDN</u>		
Circuit Switched Video/Circuit Switched Data	19.8%	19.8%
Select Video Plus [®]	19.8%	19.8%
Smart Trunk sm	19.8%	19.8%
<u>DIRECTORY ASSISTANCE SERVICES</u>	19.8%	19.8%

* Some products not available in all jurisdictions.

Resale products available subject to state and federal rules, regulations and tariffs.

	AVOIDED COST DISCOUNTS	
	<u>RECURRING</u>	<u>NON-RECURRING</u>
<u>TOLL</u>		
IntraLATA MTS	19.8%	19.8%
MaxiMizer 800 [®]	19.8%	19.8%
OutWATS	19.8%	19.8%
Toll Billing Exception	19.8%	19.8%
800 Service	19.8%	19.8%
900 Call Restriction	19.8%	19.8%
<u>OPTIONAL TOLL CALLING PLANS</u>		
1+ SAVER sm	19.8%	19.8%
1+ SAVER Direct sm	19.8%	19.8%
Circle Saver	19.8%	19.8%
Corridor Optional Saver	19.8%	19.8%
Extended Community Saver	19.8%	19.8%
<u>PLEXAR</u>		
Plexar I	19.8%	19.8%
Plexar II	19.8%	19.8%
Plexar Custom	Variable ¹	Variable ¹
<u>PRIVATE LINE</u>		
Analog Private Lines	19.8%	19.8%
Automated Distribution Services	19.8%	19.8%
Digital Loop Service	19.8%	19.8%
Foreign Exchange Service	19.8%	19.8%
Foreign Serving Office	19.8%	19.8%
Frame Relay	19.8%	19.8%
Group Alerting Services	19.8%	19.8%
MegaLink I [®]	19.8%	19.8%
MegaLink III [®]	19.8%	19.8%
MegaLink II [®]	19.8%	19.8%
MicroLink I [®]	19.8%	19.8%
MicroLink II [®]	19.8%	19.8%
MultiPoint Video	19.8%	19.8%
Service Loop Facility Modification Service	19.8%	19.8%
<u>NON-TELECOMMUNICATION SERVICES</u>		
Bill Plus	5.0%	5.0%
Consolidated Billing	5.0%	5.0%
Company Initiated Suspension and Restoral Service	0.0%	0.0%
Customer Initiated Suspension and Restoral Service	0.0%	0.0%
Enhanced Directory Listings	19.8%	19.8%

* Some products not available in all jurisdictions.

Resale products available subject to state and federal rules, regulations and tariffs.

¹Resale discount cannot be set such that SWBT provides Plexar Custom below underlying costs.

AT&T Arbitration

**Oklahoma Corporation Commission
Report and Recommendations of the Arbitrator,**

and

Order Regarding Unresolved Issues

FILED

NOV 13 1996

BEFORE THE CORPORATION COMMISSION OF THE COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION OF AT&T COMMUNICATIONS) CAUSE NO. PUD 960000218
OF THE SOUTHWEST, INC., FOR COMPULSORY)
ARBITRATION OF UNRESOLVED ISSUES WITH)
SOUTHWESTERN BELL TELEPHONE COMPANY)
PURSUANT TO § 252(b) OF THE)
TELECOMMUNICATIONS ACT OF 1996) ORDER NO.

HEARING: October 14, 15, 17, 22 and 31, 1996

APPEARANCES: O. Carey Epps, Jack P. Fite, Jay M. Galt, Margie
McCullough and Alistair Dawson, Attorneys
AT&T Communications of the Southwest, Inc.
Roger K. Toppins, Kendall Parrish, Curt Long and Michael
C. Cavell, Attorneys
Southwestern Bell Telephone Company
George M. Makohin, Attorney
American Communication Services of Tulsa, Inc.
Western Oklahoma Long Distance, Inc.
Mary Kathryn Kunc and Ron Comingdeer, Attorneys
Oklahoma Rural Telephone Coalition
Ronald E. Stakem and Stephen F. Morris, Attorneys
MCI Telecommunications Corporation
Nancy M. Thompson and Martha Jenkins, Attorneys
Sprint Communications Company, L.P.
David Jacobson, Attorney
Terral Telephone Company
Rick D. Chamberlain and Mickey Moon
Assistant Attorneys General
Office of the Attorney General, State of Oklahoma
John W. Gray, Senior Assistant General Counsel
Public Utility Division, Oklahoma Corporation
Commission

REPORT AND RECOMMENDATIONS OF THE ARBITRATOR

Introduction

On July 29, 1996, AT&T Communications of the Southwest, Inc. ("AT&T") filed an Application seeking arbitration of certain unresolved issues regarding an interconnection agreement between AT&T and Southwestern Bell Telephone Company ("SWBT"). The Application was brought pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 ("the federal Act") and OAC 165:55-17-7. In its application, AT&T requested this Commission to decide through arbitration specified disputed issues which negotiations between the parties had failed to resolve, and to approve contractual terms.

The federal Act seeks to promote local exchange telephone competition. It requires that an incumbent local exchange carrier ("ILEC") negotiate with a carrier ("competitive LEC") that seeks to interconnect with the ILEC or to purchase unbundled network elements or telecommunications services for resale from the ILEC. In the event those parties are not able to agree on all issues, Section 252(b) of the federal Act authorizes either party to request arbitration of the disputed issues before the state regulatory commission. This Commission has promulgated rules to facilitate local exchange competition. OAC 165:55-17-1 through 165:55-17-35.

The disputed issues which AT&T brought for resolution by arbitration were stated in its Application. AT&T included the following requests of this Commission: (1) to determine what telecommunications services SWBT should offer for resale; (2) to establish what discounted wholesale rates should apply for resale of services; (3) to determine what "unbundled" network elements should be provided; (4) to determine where interconnection is technically feasible; (5) to establish cost-based rates for interconnection; (6) to establish reciprocal compensation and meet point arrangements for transport and termination of traffic exchange between the respective carriers' networks; (7) to provide other essential facilities and services such as number portability, collocation and nondiscriminatory access to poles, ducts, conduits and rights-of-way; and (8) to provide dependable and flexible on-line electronic interfaces.

AT&T also requested the Arbitrator to adopt AT&T's proposed Interconnection Agreement (Appendix 9), with the rates, terms and conditions proposed by AT&T. If the Arbitrator declines to adopt any portion of AT&T's proposed Interconnection Agreement, AT&T requested it be directed to revise such portions as are necessary to comply with the Arbitrator's decision. SWBT also submitted

a proposed Interconnection Agreement, but recommended that the Commission limit the proceedings to deciding disputed issues and leave the drafting of specific contractual language to the parties.

On August 12, 1996, the Commission assigned the AT&T application to the Commission's designated Arbitrator, Robert E. Goldfield, to hear the evidence and make recommendations on the disputed issues to the Commission. On August 9, 1996, a prehearing conference was held before the Arbitrator, Mr. Goldfield. As a result of that conference, Order No. 404220 was entered establishing a procedural schedule consistent with 47 U.S.C. § 252(b)(4)(C) requiring the arbitration be concluded no later than nine months following SWBT's receipt of AT&T's request for negotiations (i.e., December 14, 1996). The procedural schedule also provided for discovery, an additional pre-hearing conference and, the date for the hearing on the merits. On August 21, 1996, SWBT filed its response.

A number of requests for intervention were filed. Order No. 404220 provided that the Attorney General and the Public Utility Division were permitted to intervene as parties, with the right to present testimony and evidence and to cross-examine witnesses. Participation by all other intervenors was limited to attendance at the hearing, access to materials filed in the case, and the filing of a written statement of position in accordance with the procedural schedule.

Order No. 404220 also provided that all arbitration hearings in the case be held *in camera*. Attendance at the hearings was limited to parties and their employees and representatives who executed a Commission-approved Confidentiality Agreement.

On October 7, 1996, a second prehearing conference was held before the Arbitrator, Mr. Goldfield. As a result of that conference, Order No. 406117 was issued bifurcating this proceeding. The Order directed that a separate hearing be scheduled at a later date to present cost studies and to determine permanent rates for unbundled network elements, customer change charges and interim and/or permanent number portability. It was further determined that the wholesale discount rate for resold services, non-cost issues and interim rates for unbundled network elements and transport and termination of traffic be decided in this portion of the cause. By agreement of the parties, and pursuant to Order No. 406117, all interim rates set forth in this report will be subject to true-up following Commission approval of permanent rates established in future hearings in this Cause.

Background and History of Negotiations

AT&T was authorized to provide facilities-based and resold local exchange services within SWBT and GTE service territories on May 7, 1996, pursuant to Order No. 401587 in Cause No. PUD 960000056. On March 14, 1996, AT&T delivered a letter requesting SWBT to initiate negotiations pursuant to § 252 of the federal Act.

Under § 252(b)(1) of the federal Act, a carrier may request arbitration during the period from the 135th day to the 160th day (inclusive) after its interconnection request has been received by the ILEC. AT&T requested interconnection negotiations on March 14, 1996. Accordingly, its request for arbitration filed on July 29, 1996, was timely and in accordance with the federal Act. SWBT is an incumbent local exchange carrier within the meaning of § 251(h) of the federal Act. SWBT provides local exchange and exchange access service in Oklahoma and is subject to the regulatory authority of this Commission.

AT&T and SWBT mutually agreed to consolidate the negotiations and conduct them on a region-wide basis encompassing Oklahoma, Texas and Missouri. The first meeting was held in St. Louis, Missouri, on March 19, 1996. Since then, the parties have conducted numerous meetings and conference calls, up through and including the hearings in this arbitration proceeding. The parties executed a Confidentiality and Non-Disclosure Agreement on April 1, 1996.

At the commencement of the hearing, the parties provided the Arbitrator with lists of issues still in dispute and which were to be resolved through the arbitration. During the arbitration hearings, the parties continued to negotiate and were successful in resolving several dozen issues. As the hearings progressed, the Arbitrator was advised as additional issues were settled between the parties. At the close of the hearing, the Arbitrator was presented with a revised list of issues indicating which ones had been settled and which ones remained unresolved.

Stipulated Issues and

Submission of Interconnection Agreement

The parties have informed the Arbitrator that various issues were resolved through pre-arbitration negotiations and during and continued negotiations throughout the course of the arbitration proceeding itself. Language resolving the settled issues are contained in either stipulations or portions of an interconnection agreement. This Report of the Arbitrator will not address the stipulated issues. By agreement and recommendation of the parties at a hearing on October 31, 1996, this proceeding will limit the scope of consideration to those issues which remain in dispute between AT&T and SWBT. Pursuant to § 252(e) of the federal Act and OAC 165:55-17-7(e), following the issuance of the Commission's order in this arbitration, the parties may submit an interconnection agreement for approval by the Commission.

Arbitrator's Findings and Recommendations With Respect to Disputed Issues

With respect to each issue that remained in dispute at the conclusion of the hearing in this proceeding, the Arbitrator summarizes the parties' respective witnesses's testimony and makes specific findings and recommendations as follows:

I. Resale Issues

A. Customer Change Charge

With respect to the procedures to be used to change a customer from one local exchange provider to another, the parties submitted testimony regarding how such changes should be administered.

Summary of AT&T testimony: AT&T, through its witness Phillip Gaddy, proposed that the customer change process be implemented with the following minimum requirements: (1) changes should be provided at an interval no longer than it currently takes SWBT to transfer customers between interexchange customers; (2) when an end user changes local carriers with no change in service or with fewer features than the customer had with SWBT, a change charge should be set at a rate (\$5.00) similar to the rate charged for changing interexchange carriers ("PIC change"), until a TELRIC study can establish an appropriate rate; and (3) allow a customer to add features or services at the time of the initial order with the new entrant paying the change charge and the wholesale nonrecurring charge for the services or features added.

Summary of SWBT testimony: SWBT witness Daniel Jackson testified that there was a considerable difference in complexity between a PIC change and changing a customer's local service provider and recommended a customer change charge of \$25.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that AT&T's proposal, that local exchange customer changes be effectuated at the same interval as PIC changes, is reasonable. The Arbitrator further finds and recommends that the interconnection agreement should provide for an interim customer change charge of \$5.00, subject to true-up, and that SWBT should complete a TELRIC study to facilitate the establishment of a reasonable permanent rate for the change charge. The Arbitrator recommends that the permanent rate for the customer change charge be addressed in a subsequent hearing in this Cause that deals with permanent rates. Finally, with respect to nonrecurring charges at the time a customer adds features or services when changing local service providers, the Arbitrator finds and recommends that the interconnection agreement include a provision that allows a customer to add features or services at the time of his/her initial order with the new entrant, paying the change charge and the wholesale nonrecurring charge, if applicable, for any additional services or features added.

B. "Fresh Look"

AT&T, through its witness Phil Gaddy, proposed that current SWBT customers who have signed long-term contracts with SWBT should be permitted to terminate those contracts without incurring termination charges.

Summary of AT&T testimony: Mr. Gaddy testified that current SWBT customers with a term commitment should be offered a fresh look opportunity. Mr. Gaddy testified that "fresh look" is a mechanism whereby a customer who receives

services previously only provided by SWBT as the incumbent LEC, is provided an opportunity to look for better prices, terms and conditions once new entrants are able to provide the service.

Mr. Gaddy testified that the FCC ordered such a provision to allow customers a "fresh look" for 800 services when 800 number portability was implemented.

Mr. Gaddy recommended that the Commission should allow any SWBT customer 180 days within which to request a change of local service provider without incurring termination, disconnect or any other penalties which would otherwise result from such termination.

Summary of SWBT testimony: SWBT witness Daniel Jackson opposed AT&T's "fresh look" proposal on the grounds that it amounted to an abrogation of existing SWBT contracts. Mr. Jackson testified that the AT&T fresh look proposal would allow customers the benefit of long-term contracts, e.g., discounted rates, without the obligation of having to fulfill the term commitments made by the customer when the customer entered into the agreement. Mr. Jackson further testified that there were competitive alternatives to most of the SWBT services that were offered under long-term contracts, e.g., SWBT's Plexar services. Mr. Jackson also testified that the contracts were entered into with the approval of the Commission.

Findings and Recommendation: Based upon the testimony, the federal Act and the applicable provisions of the FCC Order, combined with the fact that AT&T did not raise this issue in its Application for Arbitration,¹ the Arbitrator declines to make any finding with respect to this issue and recommends that the Commission decline consideration as to the merits of a "fresh look" policy with respect to long-term contracts at this time.

C. Use Restrictions

Summary of AT&T testimony: AT&T, through its witness Gaddy, proposed that there should not be any restrictions, including those found in SWBT's underlying tariffs, on the resale of SWBT's telecommunications services other than those expressly cited in the FCC Order and that new entrants should be permitted to combine resold products with other products as it chooses. With the exceptions of the restrictions on resale of residential services to business customers, and the limitation on the resale of means-tested services, such as Lifeline, to only those customers who qualify under the means test, Mr. Gaddy testified that SWBT should not be allowed to impose any restrictions on the use or resale of its telecommunications services. The FCC found in paragraph 939 of the FCC Order that resale restrictions, including those contained in the LEC's tariffs are presumptively unreasonable. The FCC also noted the ability to impose restrictions was likely to be evidence of market power and that in a competitive environment a seller would not be able to impose significant restrictions. Therefore, all restrictions or limitations other than those stated above should be prohibited.

Mr. Gaddy did not agree with Mr. Jackson that there was a difference between resale restrictions and a "use limitation."

Summary of SWBT testimony: SWBT witness Daniel Jackson testified that end user use restrictions that SWBT applies to its retail offerings should also be applied by AT&T and other competitive LECs that resell those offerings. He testified that a distinction must be made between "resale restrictions," which prohibit the resale of services (and which are not at issue in this arbitration proceeding) and "use restrictions" or "use limitations," which are contained as part of the service themselves. As an example, Mr. Jackson testified regarding SWBT's Low Use Service Plan which provides that a customer may not use the service at the same premises where the customer also subscribes to a flat rate local exchange service. Mr. Jackson testified that this restriction must continue with the service when it is resold by AT&T to its retail customers; otherwise, it is not the same service. Mr. Jackson testified about two other use

¹Section 252(b) (2) of the federal Act requires a party that petitions a state regulatory commission for arbitration to "provide the State commission all relevant documentation concerning...the unresolved issues." In a similar vein, § 252(b) (4) (A) requires the state commission to "limit its consideration" of any petition for arbitration "to the issues set forth in the petition and in the response...." AT&T witness Gaddy admitted on cross-examination that AT&T had failed to raise or identify the "fresh look" issue in its Application for Arbitration.

restrictions at issue in the arbitration proceeding--the contiguous property limitation associated with SWBT's Plexar-type services, and the limitations that require SWBT's services to be used exclusively by the customer to whom the service is provided, rather than through aggregation. Mr. Jackson testified that the Plexar contiguous property limitations were reasonable and had been approved by the Commission and should be enforced by AT&T when an AT&T customer buys Plexar on a resale basis. Similarly, Mr. Jackson testified that the prohibition against aggregating traffic over optional calling plans should also be enforced or a carrier could avoid the payment of access charges otherwise.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that SWBT's position is reasonable and is consistent with the federal Act and the FCC Order. Section 251(b)(1) imposes on ILECs the "duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services" which the Arbitrator distinguishes from use limitations as noted by witness Jackson. The parties informed the Arbitrator that they had stipulated as to which SWBT services were available for resale by AT&T. Therefore, no "resale restriction issues" per se have been submitted for arbitration.

The Arbitrator finds nothing in the federal Act that would permit a reselling competitive LEC to change the terms and conditions of an ILEC's service when offering it for resale. The FCC Order, however, addresses this issue in several places. Most importantly, the "final rules" adopted by the FCC as part of its Order in CC Docket 96-98, specifically states that "A LEC must provide services to requesting telecommunications carriers for resale that are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that the LEC provides these services to others, including end users." (Emphasis added). This is consistent with several provisions of the FCC's Order. For example, Paragraph 332 provides:

More specifically, carriers reselling incumbent LEC services are limited to offering the same service an incumbent offers at retail. This means that resellers cannot offer services or products that incumbents do not offer.

The Arbitrator finds persuasive SWBT's argument that, if the terms and conditions contained in SWBT's tariffs were not enforced by AT&T in reselling a particular service, in effect, AT&T would be offering a different service. This would be contrary to Paragraph 872 of the FCC Order, which provides that "The 1996 Act does not require an incumbent LEC to make a wholesale offering of any service that the incumbent LEC does not offer to retail customers." Paragraph 939 of the FCC Order, referred to by AT&T witness Gaddy, by its terms applies to "resale restrictions," not "use limitations."

The Arbitrator further finds and recommends that the prohibition against aggregating traffic over optional calling plans is reasonable and should be enforced when AT&T is reselling such services. This finding is consistent with Paragraph 875 of the FCC Order which provides that the federal Act does not require ILECs to make services available for resale at wholesale rates to parties "who are purchasing a service for their own use." It is also consistent with Paragraph 980 of the FCC Order which provides that ILECs are to continue to receive access charge revenues when reselling local services.

In summary, it is the Arbitrator's recommendation that all use limitations, terms and conditions contained in SWBT's tariffs with respect to services that are resold by AT&T be enforced by AT&T when providing such resold services to its customers.

D. Promotions

Summary of AT&T testimony: AT&T, through its witness Gaddy, proposed that all promotions offered by SWBT be made available to AT&T and other competitive LECs for resale at the appropriate wholesale discount. Promotions of 90 days or less should not only be available for resale but also receive the wholesale discount determined by this Commission. While the FCC at paragraph 950 of the FCC's Order established a presumption that the wholesale discount need not be offered to resellers, as a matter of public policy this commission should require SWBT to allow resale of promotions and apply the wholesale discount.

Summary of SWBT testimony: SWBT witness Jackson pointed out the provisions of the FCC Order that require only those promotions offered for more than 90 days should be offered for resale. He testified that SWBT intended to make promotions of more than 90 days in duration available for resale at the promotional rate,

less the wholesale discount, but that promotions of less than 90 days in duration would not be available for resale.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that SWBT's position is reasonable and consistent with the FCC Order. Paragraph 950 of the FCC Order provides that:

We therefore establish a presumption that promotional prices offered for a period of 90 days or less need not be offered at a discount to resellers. Promotional offerings greater than 90 days in duration must be offered for resale at wholesale rates pursuant to section 251(c)(4)(A).

The Arbitrator finds that AT&T did not rebut the presumption contained in the foregoing paragraph and recommends that the provisions of Paragraph 950 be adopted and applied by the Commission in resolving this disputed issue.

E. Branding

In its Application for arbitration, AT&T requested that SWBT be required to brand all services provided to AT&T including, but not limited to, installation, repair/maintenance, and operator and directory assistance. In addition, AT&T requested that if SWBT could not brand such services with AT&T's name, SWBT should be required to unbrand its services. In response, SWBT agreed to remove its name from the card it currently leaves behind so that the end user would know that someone came to work on their phone, but the end user would not be able to identify it as being provided by SWBT. In addition, SWBT agreed to brand operator and directory assistance with AT&T's name on facilities-based lines although it was technically constrained from branding resold services with AT&T's name. Finally, SWBT objected to branding its installation and maintenance vehicles and personnel with another provider's name or, in the alternative, unbranding such facilities.

Summary of AT&T testimony: Phillip L. Gaddy testified on behalf of AT&T and clarified which branding issues were remaining to be resolved by arbitration. Mr. Gaddy clarified to the Arbitrator that AT&T had not requested re-branding of SWBT vehicles or personnel and that a decision was not being sought on that issue. Mr. Gaddy further advised the Arbitrator that the parties had reached an agreement on branding operator and directory assistance services and that no decision was being sought on that issue. The agreement provided that rebranding of such services would be available starting March 1997 and that, if allowed by federal and state law, SWBT would unbrand such services in the interim period. Mr. Gaddy testified that AT&T is asking for branding in the provision of SWBT's services such as operator services and directory assistance as required by the rules of the FCC. Mr. Gaddy testified that AT&T was also asking that when a SWBT employee makes a contact with a customer when representing AT&T (such as installation or repairs), that they indicate they are there on AT&T's behalf.

Summary of SWBT testimony: Eugene F. Springfield testified on behalf of SWBT concerning branding of SWBT repair services. Mr. Springfield testified that re-branding of such services in AT&T's name was not feasible since the SWBT repair technician would not be able to distinguish which competitor actually dispatched the repair call. Further, Mr. Springfield testified that SWBT had reached agreements with other competitors to not brand on their behalf in order to limit any potential discriminatory treatment by the repair technician.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator recommends that with respect to installation, maintenance and repair services, the Commission require SWBT personnel to identify that they are acting on AT&T's behalf when providing such services to AT&T customers. The Arbitrator believes that such identification is in the public's best interest for safety and security reasons, and is also necessary to minimize customer confusion where SWBT personnel are responding to a call by an AT&T customer. The Arbitrator further recommends that "AT&T branded" materials, to be utilized by SWBT repair technicians when dealing with AT&T's customers, be furnished to SWBT by and at the sole expense of AT&T. Branding recommended herein shall not include re-branding of SWBT vehicles or personnel. Rather, the Arbitrator recommends that SWBT continue to brand its vehicles and personnel in the name of SWBT.

II. Operational and Technical Issues

A. Electronic Interfaces

Summary of AT&T testimony: AT&T witness Nancy Dalton testified that in order to limit the manual intervention that a fax and form environment for ordering and provisioning poses, AT&T and SWBT are examining an additional alternative that will allow AT&T to send all orders electronically to SWBT on January 1, 1997, and for those order types and functions that SWBT cannot electronically process, SWBT would be required to develop system processes to error the orders out of the electronic stream for exception processing.

AT&T is recommending that if the alternative described to send all order types functions to SWBT on or about January 1, 1997, cannot be accomplished, that this Commission order the dates proposed by AT&T for each order type and function with an end-date of April 1, 1997.

During the negotiations process, AT&T and SWBT had not reached agreement on the unbundled network elements and as a result did not negotiate the electronic operational interfaces required for ordering, provisioning, repairing/maintaining, and billing the elements or combinations. AT&T is recommending that this Commission order that the parties jointly negotiate the interfaces required for ordering, provisioning, repairing/maintaining, and billing for individual unbundled network elements and any combination thereof. These interfaces will be required for the elements that have been approved by the FCC, by this Commission, or through negotiations between AT&T and SWBT. AT&T recommends that the interfaces agreed to for Resale be modified for unbundled network elements not later than May 1, 1997.

Summary of SWBT testimony: James R. Watts testified on behalf of SWBT concerning electronic interfaces for the functions of pre-ordering, ordering, provisioning, maintenance, repair and billing for those services which SWBT will provide to AT&T. The parties had generally agreed as to what interfaces should be established for resold services, but the timing for the availability of the interface for certain services remained in dispute. The parties have not yet agreed on what interfaces should be used for unbundled elements because those elements themselves have not yet been established. Furthermore, no national standards exist for many of the interfaces to be developed. Accordingly, SWBT cannot predict how long development and implementation of these complicated interfaces will take. Mr. Watts recommended that the Arbitrator grant SWBT some flexibility for the implementation of interfaces that cannot be completed by January 1, 1997.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that SWBT must develop electronic interfaces for the pre-ordering, ordering, provisioning, maintenance, repair and billing for services to be provided under the interconnection agreement. SWBT must adhere to the developing national standards with respect to each interface to be developed and implemented. The schedule for implementation of the interfaces shall be those target dates indicated by SWBT on Exhibit No. 83, as revised and amended, and attached hereto, with a variation of no more than two (2) weeks.

B. Notification of New Products and Services and Rate Changes

With respect to SWBT services resold by AT&T, AT&T proposed that the Commission require SWBT to provide 90 days advance notice before the effective date of any tariff that introduces a new product or service and 90 days notice prior to the effective date of changes to existing products and services (including extended area calling scopes and exchange sales). AT&T also proposed a minimum of 45 days advance notice before the effective date of any pricing changes to be introduced by SWBT.

Summary of AT&T testimony: Ms. Dalton testified that through the negotiations, AT&T requested that SWBT provide AT&T with 90 days advance notice of new products/services and/or changes to existing products/service and, consistent with this Commission's rules, 45 days advance notice of pricing changes. SWBT's position is that AT&T will be notified by an "Accessible letter" at the time that SWBT files a tariff for a new product/service, changes to a new product/service and/or pricing changes. This, often times, is a 45-day period of time which will satisfy AT&T's request for notification of pricing changes for tariffed services but it does not address pricing changes for non-tariffed services and it does not provide sufficient notification of new products/services. AT&T requires the 90-day notice for the introduction of new products/services and changes to existing products/services in order to modify the operational processes necessary for AT&T to offer the product/service and support any modifications that SWBT makes to existing products/services. The interfaces that will require modification include interfaces such as the ordering and provisioning interface between AT&T and SWBT, Ms. Dalton did not believe SWBT was committing to modify those interfaces based on a 45-day notification

interval. In addition, billing systems are critical systems that will require modification. In the long-distance business where SWBT has performed billing services for AT&T, SWBT itself requires a minimum of 90 days advance notice for price and price structure changes alone and requires beyond 90 days for other than price/price structure changes for the introduction of new AT&T products and services.

AT&T is recommending that this Commission order the advance notification time frames that AT&T is requesting for the notification of new products/services and/or changes to existing products/services, that is, 90 days, and 45 days advance notice for price or price structure changes for non-tariffed products/services, consistent with the tariffed service notification process for pricing changes.

Summary of SWBT testimony: SWBT witness Daniel Jackson opposed AT&T's advance notification proposals on the grounds that the Commission adopted a notification rule in its recently completed local exchange competition rulemaking docket, Cause No. RM 950000019 and that AT&T failed to raise its 45-90 day advance notice proposal in that docket. Mr. Jackson testified that it would provide competitive LECs with the same notice it provides IXCs, i.e., a copy of SWBT's proposed tariffs at the time they are filed. Mr. Jackson testified that the long advance notice proposal of AT&T would cause delays in getting new products and services to Oklahoma consumers as quickly as possible.

Findings and Recommendation: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that SWBT should be required to provide 90 days advance notice before the effective date of new products and services and changes to existing products and services that are available for resale. Further, SWBT should be required to provide a minimum of 45 days notice before the effective date of pricing changes for services that are available for resale. However, to maintain competitive parity, AT&T should not be permitted to offer any new product or service before SWBT is permitted to offer the service and SWBT should incur no liability to AT&T if the new service or product is not ultimately offered by SWBT or approved by the Commission.

C. Performance Standards

The parties were unable to agree to performance standards and liquidated damages provisions. In its application for arbitration, AT&T requested that SWBT be required to meet performance standards and maintain audit and control mechanisms to ensure that AT&T and its customers receive the type, manner and quality of services that AT&T and its customers are paying for. In its response, SWBT agreed to provide the same high quality level of service to AT&T's retail local service customers that SWBT provides to its own end user customers. SWBT's response stated that burdensome performance standards specific to AT&T and associated audit mechanisms should not be required.

Summary of AT&T testimony: Ms. Nancy Dalton testified on behalf of AT&T regarding performance standards and liquidated damages. She testified that if measurements and standards could be provided to AT&T so that it could communicate guarantees to its customers, there would be no issue for arbitration. In addition, Ms. Dalton testified to AT&T's request for penalties in the event performance standards are not met. She testified further that AT&T could agree to the per incident liquidated damages clause executed between SWBT and another local service provider.

Summary of SWBT testimony: William C. Deere testified on behalf of SWBT with respect to performance standards and penalties. Mr. Deere testified that SWBT would provide the same level of service to AT&T that SWBT provided to its own customers pursuant to this Commission's rules. In addition, Mr. Deere testified that SWBT has agreed to performance standards and liquidated damages provisions with other competitors and that additional measures specific to AT&T would be unreasonable.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator recommends that the Commission require SWBT to meet the same performance standards for services provided to AT&T that SWBT has agreed to in other interconnection agreements approved by the Commission. In addition, such standards should be in conformance with standards contained in this Commission's rules. The Arbitrator further recommends that the liquidated damages provisions be limited to \$25,000 per occurrence unless otherwise agreed to between the parties. Since AT&T will act solely as a reseller of SWBT's services for the near term, the liquidated damages provision proposed by AT&T would be overly punitive to SWBT in that it would impose a penalty far above any actual expenses incurred by AT&T. Once AT&T

becomes a facility based provider, the amount for liquidated damages may need to be increased.

III. Unbundled Network Elements

AT&T and SWBT were unable to reach agreement on the specific elements of SWBT's network which should be provided to AT&T on an unbundled basis. In its application for arbitration, AT&T contended that SWBT should unbundle its network at all technically feasible points and that AT&T should be permitted to package such network elements in any combination. Specifically, AT&T requested the Commission to require SWBT to provide twelve unbundled network elements which included the network interface device, loop distribution, loop concentration/multiplexer, loop feeder, end office switching, operator systems, dedicated transport, common transport, tandem switching, signaling links, signal transfer points, and the service control point. In its response to AT&T's application, SWBT proposed to offer the network interface device, loop, cross connect port, switching and local transport as unbundled network elements. Therefore, AT&T requested the Commission to determine which network functions SWBT should be required to offer on an unbundled basis to AT&T.

Summary of AT&T testimony: AT&T witness James Jacobson set forth the Network Elements which the FCC ordered an incumbent LECs was to unbundle. This "minimum set" of unbundled network elements should be expanded to include the Loop Distribution, the Loop Concentrator/Multiplexer, Loop Feeder, and Dark Fiber.

According to Mr. Jacobson, dark fiber is fiber transmission media which has been deployed but which is not being utilized to provide service at the present time. It is fiber that does not have electronics on either end which is commonly referred to in the industry as "unlit" or "dark". The unbundling of dark fiber is technically feasible and does not raise any proprietary issues for the incumbent LECs.

Mr. Jacobson testified that new entrants will likely deploy Synchronous Optical Network (SONET) rings in given market areas to create facilities-based competition with the incumbent LEC. To facilitate new entrants building plans and promote a facilities-based offer in the marketplace, new entrants should have the ability to purchase dark fiber that the incumbent LECs have deployed.

Mr. Jacobson further testified that there should be further unbundling with respect to the LEC network interconnection device (NID). New entrants should be given the ability to utilize any spare terminals on an existing incumbent LEC NID to directly connect its loops. If no spare terminals would be available on the existing network interface device, new entrants should be permitted to install their own NID and move the customer's inside wire from the incumbent LEC NID to the newly installed device. This solution will solve the customer's concern when at the same time mitigating the incumbent ILECs expressed concerns about safety and will also reduce the number of cases where customer must be inconvenienced by multiple devices attached to their home.

AT&T witness Daniel C. Keating, III testified regarding subloop elements that should be unbundled. The three Subloop Network Elements linking the NID to the Local Switch that should be further unbundled are: (1) loop distribution plant and (2) the loop concentrator/multiplexer, and (3) loop feeder. Mr. Keating testified that the FCC has ordered the incumbent LECs to unbundle the NID and the loop as distinct network elements but has left to individual State Commissions the decision whether to unbundle any sub-loop elements.

Mr. Keating testified that unbundling of the loop distribution element will create flexibility for new entrants that have established feeder facilities from their local switches, but do not have local distribution facilities to the customer's premises. Such carriers can justify use of their fiber backbones to transport traffic between their switch and the incumbent LEC's loop distribution facilities, i.e., provide their own loop feeder fiber capabilities. In such cases, the new entrant could use the incumbent LEC's loop distribution plant, in conjunction with the LEC's loop concentrator/multiplexer (when one is present) to deliver traffic between the new entrant's backbone network (at the LSO) and an individual end user. This will speed the development of facilities-based solutions. According to Mr. Keating, the unbundling of the sub-loop is technically feasible and is documented in various existing industry publications. Mr. Keating testified that there is no technical reason why unbundling and interconnection of each of these elements cannot be accomplished and, according to the FCC Order, it is SWBT's burden to demonstrate the absence of technical feasibility to accommodate the requested unbundling. Considerations relating to space and provisioning are not "technically feasible" issues. FCC Order Paragraph No. 390.

Summary of SWBT testimony: William C. Deere testified regarding the network elements SWBT proposes to offer to AT&T on an unbundled basis. Mr. Deere expanded SWBT's original list of proposed unbundled network elements to include access to the network interface device, the local loop, the loop cross connect, local switching, interoffice transport (dedicated transport and common transport), tandem switching, signaling and call-related databases, access to operations support systems functions, and access to operator services and directory assistance. Mr. Deere also testified that unbundling the local loop into three sub-elements would increase the probability of network failures and be detrimental to quality of service. Further, sub-loop unbundling would increase the potential for workman-caused trouble in cable enclosures due to lack of security and could lead to a deterioration of customer service for all telecommunications customers. Finally, Mr. Deere testified that the provision of dark fiber would eliminate SWBT's ability to test and maintain that portion of its network.

Mr. Deere further testified that the Commission should permit AT&T to connect its NID to the SWBT NID on a single unit dwelling and one or two line business locations where the customer inside wiring is not easily accessible outside of the SWBT NID. For business and apartment locations where the customer's inside wiring is accessible outside of the SWBT NID, AT&T should provide its own NID and connect directly to the customer's inside wiring. For business and apartment locations where the customer's inside wiring is not accessible outside of the SWBT NID, SWBT would rearrange its NID to provide access to the inside wiring at AT&T's expense.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that SWBT should implement the seven FCC ordered Unbundled Elements, as set forth at paragraph 366 of the FCC Order: Network Interface Devices, Local Loops, Local Switching, Interoffice Transmission Facilities, Signaling and Call-Related Databases, Operations Support Systems, and Operator Services and Directory Assistance Facilities.

The Arbitrator further recommends that SWBT be ordered to provide access on an unbundled basis to: (1) SWBT's unbundled loop through loop distribution, loop concentrator/multiplexer and the loop feeder facilities whenever it is technically feasible, as may be determined at such time that AT&T becomes a facilities-based provider (if there is a disagreement as to what elements are technically feasible at that time, the parties may request a Commission determination of the issue); and (2) SWBT's "regulated" dark fiber.

Additional requested unbundled elements shall be made available when technically feasible and shall be provided upon terms and conditions that are reasonable, just and non-discriminatory. AT&T should be allowed to order and use unbundled network elements and any combination that it deems appropriate for the provision of service. Any mediation to SWBT's AIN database must be performed on a competitively neutral basis, applied equally to all database users including SWBT.

IV. Interconnection and Collocation Issues

A. Interconnection

In its application for arbitration, AT&T requested that SWBT be required to provide interconnection through two-way trunks with Feature Group D-type technical characteristics and full SS7 capabilities, to existing and future incumbent LEC end offices and the nearest SWBT access tandem within its service area. In addition, AT&T requested that SWBT be required to negotiate specific meet point arrangements for interconnection where each party would be responsible for the costs of constructing and maintaining facilities to the meet points. SWBT responded that two-way trunks would be feasible in the long term, but that one-way trunking would provide for higher network performance reliability in the initial start up phases. Further, SWBT agreed to negotiate mutually agreeable meet point arrangements between carriers.

Summary of AT&T testimony: AT&T witness, James Jacobson described interconnection as being the physical linking of two networks for the mutual exchange of traffic. According to Mr. Jacobson, both the federal Act and the FCC Order at paragraph 173 require the incumbent LEC to provide interconnection at all "technically feasible points" at the same quality that it provides to itself and on rates, terms and conditions that are "just reasonable and nondiscriminatory." The federal Act, § 252(c)(2). Mr. Jacobson testified that interconnection does not include the transport and termination of traffic and, therefore, should not be confused with reciprocal compensation arrangements.

Mr. Jacobson testified that the FCC ordered the incumbent LECs to provide interconnection at the following points: (1) lineside of a local switch; (2) trunkside of a local switch; (3) trunk interconnection points for tandem switch; (4) central office cross-connect points; (5) out-of-band signaling transfer points; and, (6) the points of access to unbundled elements.

The parties have resolved the majority of their differences except for the method of interconnection that should be provided and whether additional interconnection, above that mandated by the FCC, should be required.

Mr. Jacobson testified that SWBT should be required to provide interconnection to AT&T at any technically feasible point and any additional interconnection should be required with SWBT's network to the extent SWBT provides such interconnection to itself. Mr. Jacobson testified further that the parties had reached agreement on the use of two-way trunking and routing through SWBT tandem switches.

Summary of SWBT testimony: William C. Deere testified on behalf of SWBT regarding the interconnection arrangements offered by SWBT. SWBT proposed four alternatives for physical interconnection including a mid-span fiber interconnection, physical collocation, virtual collocation and SONET-based interconnection.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that under § 251(c)(2) of the federal Act and OAC 165:55-17-13, SWBT has a duty to provide interconnection with its network for the transmission and routing of telephone exchange service and exchange access service at any technically feasible point within its network; that is at least equal in quality to that provided by SWBT to itself or any subsidiary or other interconnecting party; and on rates, terms and conditions that are just, reasonable and nondiscriminatory. The Arbitrator finds, consistent with the FCC Order, that the points of interconnection include the lineside of the local switch, trunkside of a local switch, trunk interconnection points for tandem switch, central office cross-connect points, out-of-band signaling transfer points, the signaling transfer points and the points of access to unbundled elements. Consistent with § 550 of the FCC Order, the Arbitrator further finds that physical and virtual collocation are the only methods of interconnection and access specifically addressed by the federal Act. However, the FCC Order concluded that technically feasible methods of interconnection would include any method of interconnection that is currently employed between two networks or that has been used successfully in the past. Accordingly, the Arbitrator finds that a meet point arrangement such as the mid-span fiber interconnection proposed by SWBT is technically feasible and should be offered to AT&T. In addition, the Arbitrator finds that the SONET-based interconnection identified by SWBT as a method of interconnection currently offered in its interstate access tariff is technically feasible. Therefore, the Arbitrator recommends that the Commission adopt mid-span fiber interconnection, physical collocation interconnection, virtual collocation interconnection and SONET-based interconnection as the current technically feasible methods of interconnection with SWBT's network. The price for such interconnection will be set on a case-by-case basis to be determined after a particular location is selected.

B. Collocation

In its application for arbitration, AT&T requested that SWBT be required to provide physical collocation for AT&T equipment in SWBT buildings and structures that house telecommunications network equipment, without limitation on the type or use of the collocated equipment. Further, AT&T requested that SWBT be precluded from placing any restrictions on interconnecting with other carriers collocated in the same SWBT building. Finally, AT&T requested that the rates for collocation be set at Total Service Long Run Incremental Cost (TSLRIC).

In its response, SWBT agreed to provide physical collocation in a manner which allows SWBT to recover the fair market value of the space being used by the collocater and which allows SWBT to recover the costs of collocation from the entity causing the cost. Further, SWBT agreed to negotiate mutually agreeable collocation sites and interconnection between collocating carriers.

Summary of AT&T testimony: AT&T witness James Jacobson addressed the issue of collocation. According to Mr. Jacobson, there are two primary types of collocation architecture: (1) physical collocation; and (2) virtual collocation.

Mr. Jacobson testified that "physical collocation" is an offering by an incumbent LEC that enables a requesting telecommunications carrier to (1) obtain a reasonable amount of space in an incumbent LEC's premises, on a first-come,

first-served basis; (2) place its own equipment to interconnect with the incumbent LEC's network facilities for the transmission and routing of telephone exchange service, exchange access service, or both, or to gain access to the incumbent LEC unbundled network elements for the provision of a telecommunications service; and (3) have access to those premises, subject to reasonable terms and conditions to install, maintain and repair their equipment.

Mr. Jacobson testified further that "virtual collocation" is an offering by SWBT that enables a requesting telecommunications carrier to: (1) designate or specify equipment to be installed and maintained by SWBT in its premises, and dedicated for such telecommunication carrier's use, interconnection or access to unbundled elements; and (2) remotely monitor and control its communications channels terminating in such equipment.

Mr. Jacobson testified that although AT&T and SWBT had reached an agreement in many areas regarding the subject matter of collocation, SWBT thought that AT&T's requests concerning physical collocation were overly broad in terms of the premises requested and was not technically feasible to collocate within remote terminal cabinets, huts or vaults.

According to Mr. Jacobson, the FCC had ordered that the premises available for collocation include vaults containing loop concentrators or similar structures. (FCC Order ¶ 573). Further, AT&T is only requesting to place equipment that is as small as 8" x 5" x 3" and no larger than a common microwave oven. The equipment AT&T intends to collocate in the structures are designed for these structures and can be easily installed. AT&T understands the space limitations in these cabinets, huts, and vaults and finds virtual collocation as an acceptable option when physical collocation is not available.

Mr. Jacobson further stated that SWBT had signed a Stipulation on the issues of collocating the remote switching module in the Texas arbitration hearings, which would allow AT&T to collocate remote switching devices. AT&T was also of the opinion that SWBT's interpretation of ¶ 573 of the FCC Order was overly restrictive in terms of limiting collocation to structures that are on public rights-of-way, a position which was reversed by SWBT in the Texas arbitration proceedings.

Summary of SWBT testimony: William C. Deere testified on behalf of SWBT regarding collocation. Mr. Deere testified that the limited space available in vaults and huts precluded physical collocation in such structures. Further, Mr. Deere testified that SWBT would allow virtual collocation at such locations where there is insufficient space and power for equipment in SWBT structures. Finally, because each central office is different and requests for collocation differ, SWBT proposes that rates for collocation be established on a case-by-case basis.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that, under section 251(c)(6) of the federal Act and OAC 165:55-17-5, SWBT has a duty to provide for physical collocation of equipment necessary for interconnection or access to unbundled network elements at its premises, except that SWBT may provide for virtual collocation if it demonstrates that physical collocation is not practical for technical reasons or because of space limitations. The Arbitrator further finds that sections 251(c)(2) and (3) of the federal Act only require interconnection and access to unbundled network elements under those sections at technically feasible points. Therefore, the Arbitrator recommends that SWBT be required to permit physical collocation only where space and power are available. Where space and power are not available, SWBT shall provide for virtual collocation. The Arbitrator further recommends that SWBT shall determine whether sufficient space is available for physical collocation at a particular location.

The Arbitrator finds that in addition to the limitations on physical collocation imposed by the federal Act, the FCC has continued to permit incumbent LECs to require reasonable security arrangements to separate an entrant's collocation space from the incumbent LEC's facilities; FCC Order, ¶ 598. Further, the Arbitrator finds that reasonable security measures cannot be technically provided in SWBT controlled environment vaults and transmission huts. Therefore, the Arbitrator recommends that SWBT not be required to provide physical collocation in its transmission huts and controlled environment vaults.

The Arbitrator further finds that the FCC determined that incumbent LECs are required to make space available to requesting carriers on a first-come, first-served basis; FCC Order, ¶ 585. In addition, the FCC determined that equipment collocated for the purposes expressly permitted under section 251(c)(6), should be permitted to connect with the equipment of other collocated carriers located nearby; FCC Order, ¶ 594. The Arbitrator finds that these conditions on collocation are reasonable and should be adopted by the Commission. However, the Arbitrator recommends that equipment placed in a carrier's

collocated space conform with national standards, be used and useful and be operated in a manner not inconsistent with SWBT's network.

The Arbitrator further finds that new entrants should be allowed to interconnect equipment with other new entrant's equipment on the same premises, subject to the following limitations. Consistent with the FCC's Order, collocation and interconnection between collocated carriers should be limited to the provision of regulated activities. Therefore, collocating carriers may not utilize their collocation arrangements for the purpose of providing enhanced services or other services not under the jurisdiction of this Commission. In addition, the collocated space in SWBT's premises shall not be utilized for office, retail or sales purposes. In addition, collocated carriers shall be required to comply with all applicable health, safety, and security arrangements. Finally, collocated carriers must conform to the same standards as applied to SWBT including any national standards and such carriers may not interfere with or impair SWBT's service or equipment.

The Arbitrator further recommends that the Commission permit SWBT to price its physical collocation arrangements on a case-by-case basis. The cost of physical collocation should include the cost to implement the requested arrangement plus an allocation of shared costs based on the usage of different occupants. The Arbitrator finds that there was no dispute that costs vary by location and that physical collocation rates should recover their cost. With regard to virtual collocation, the Arbitrator recommends accepting SWBT's pricing for virtual collocation, which will be made available in accordance with SWBT tariff FCC No. 73, § 26, "Expanded Interconnection".

C. Poles, Conduits and Rights-of-Way

During the arbitration hearings, the parties resolved several disputed issues regarding poles, conduits and rights-of-way. The parties did not reach agreement, however, with respect to five specific sections and each party submitted proposed language to the Arbitrator in Exhibit 101A.

With respect to the five issues in dispute, James Hearst testified on behalf of SWBT and Daniel Keating testified on behalf of AT&T.

Issue No. 1: The first disputed issue relates to the situations where AT&T seeks to utilize alternative pole attachment techniques to avoid high or unusual expenditures. The parties agreed that the nonstandard placement would be rare. Mr. Hearst proposed language requiring each nonstandard placement to "be approved by SWBT" on a case by case basis rather than "considered" on a case-by case basis as proposed by AT&T witness Keating.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that SWBT's position is reasonable and should be adopted by the Commission.

Issue No. 2: The second disputed issue relates to situations where the parties arrive at the location of damaged facilities and a determination must be made as to who should repair their facilities first and what method should be used. The dispute centers around who will resolve the dispute at the site.

Mr. Keating proposed the following language:

Based on the above criteria, disputes will be immediately resolved at the site among the affected parties, with no privileged use of emergency conduits space by SWBT unless SWBT's outage places its needs above those of other parties following the criteria listed above.

Mr. Hearst testified that SWBT, as the owner of the facilities, should be permitted to resolve disputes at the site and proposed the following language:

Based on the above criteria, disputes will be immediately resolved at the site among the affected parties. If the affected parties do not reach agreement, SWBT will resolve the dispute based upon the above criteria.

Findings and Recommendation: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that Mr. Hearst's proposed language is reasonable since disputes at the site must be ultimately resolved by someone or an emergency situation could be exacerbated, and recommends that the SWBT proposed language should be adopted as follows:

SWBT agrees to designate no more than one full-sized conduit within any given conduit system cross-section as being the Repair/Maintenance/Emergency Duct. Such duct shall be available for use by any local service provider needing to restore service and shall be available on a non-discriminatory basis. In emergency situations (service disruptions), prioritization of occupancy of the emergency duct space among service providers shall be based upon restoring 911, fire, police, and hospital telephone service first. Secondary criteria for occupancy of the emergency duct space shall be based on the service provider with the greatest number of lines out of service due to the emergency being rectified. Based on the above criteria, disputes will be immediately resolved at the site among the affected parties. If the affected parties do not reach agreement, SWBT will resolve the dispute based upon the above criteria. Final resolution of any such disputes will be made by the Oklahoma Corporation Commission.

SWBT and competitive LECs may utilize the repair/maintenance duct on a short-term basis (i.e., 30 days) in non-emergency situations. However, such cables shall be subject to accommodations that can rectify the emergency. The competitive LEC (or SWBT) is obligated to recreate at least one full-sized duct for emergency/maintenance repair.

Issue No. 3: The third disputed issue relates to excavation of cable by AT&T. SWBT witness Hearst proposed the following language be included in the section of the interconnection agreement relating to excavation:

AT&T shall not conduct facility excavation activities in any manner which jeopardizes or degrades the integrity of SWBT's structures or interferes with any existing use of the facilities and AT&T will indemnify SWBT for any damages resulting from AT&T's excavation activities.

Mr. Hearst testified that although SWBT did not oppose AT&T doing its own excavation work, it believed AT&T or any other competitive LEC should indemnify SWBT for any damage caused to SWBT's property. AT&T witness Keating opposed the inclusion of this language and did not propose any alternative language.

Findings and Recommendation: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that SWBT's position is reasonable and recommends that SWBT's proposed language be adopted.

Issue No. 4: The fourth disputed issue relates to how AT&T will pay SWBT for the use of poles, ducts, conduits and rights-of-way. Again, SWBT witness Hearst and AT&T witness Keating testified in support of their respective companies' proposed contract language.

The simplest way to explain the parties' respective positions is to set forth their proposed language.

AT&T proposed the following language:

AT&T shall pay to SWBT for use of poles, ducts, conduits, and rights-of-way:

- (1) Reimbursement for "make-ready" work requested by AT&T;
- (2) Rent paid annually for the use of the space in Oklahoma at \$1.55/year per pole attachment, \$0.39/ft per year for a full-size conduit, and \$0.13/ft per year for an inner-duct (i.e., third duct rate).
- (3) Administrative Fees, if and to the extent such fees are authorized by the Oklahoma Corporation Commission (Commission) in this Arbitration, Cause No. PUD 960000218.

SWBT proposed the following language:

Subject to annual adjustments pursuant to the licensing agreement between the parties, AT&T shall pay to SWBT

for the use of poles, ducts, conduits, and rights-of-way:

- (1) Reimbursement for "make-ready" work requested by AT&T;
- (2) Current annual "license fee" for the use of the space in Oklahoma at \$1.55/year per pole attachment, \$0.39/ft per year for a full-size conduit, and \$0.195/ft per year for an inner-duct (i.e., half duct rate).
- (3) Administrative Fees, if and to the extent such fees are authorized by the Oklahoma Corporation Commission (Commission) in this Arbitration, Cause No. PUD 960000218.

Findings and Recommendation: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, and after considering the testimony of Mr. Hearst and Mr. Keating and reviewing the parties' respective proposed language, the Arbitrator finds and recommends that the Commission adopt the following language with respect to this disputed issue:

Subject to annual adjustments pursuant to the licensing agreement between the parties, AT&T shall pay to SWBT for the use of poles, ducts, conduits, and rights-of-way:

- (1) Reimbursement for "make-ready" work requested by AT&T;
- (2) Current annual "license fee" for the use of the space in Oklahoma at \$1.55/year per pole attachment, \$0.39/ft per year for a full-size conduit, and \$0.13/ft per year for an inner-duct (i.e., one-third duct rate).
- (3) Administrative Fees, if and to the extent such fees are authorized by the Oklahoma Corporation Commission (Commission) in this Arbitration, Cause No. PUD 960000218.

Issue No. 5: The fifth and last disputed issue relating to poles, conduits and rights-of-way pertains to how the assignment of space will be administered.

AT&T's witness Keating proposed the following language:

SWBT and AT&T agree that:

- a. upon AT&T's or SWBT's recorded and dated entry into SWBT's log of space assignments/occupancies or upon SWBT's receipt of AT&T's notice to occupy unassigned space, SWBT will deem such space as assigned to AT&T and shall not allow any use thereof by any other party, including SWBT. AT&T's compensation for its use of such space will be paid semi-annually, commencing from the date the assignment of space is recorded in the pole/duct/conduit/right-of-way space assignment record. Pole, duct, conduit and right-of-way space shall not be occupied by AT&T or SWBT until such space assignment has been recorded and dated in the pole/duct/conduit/right-of-way space assignment record unless such occupancy is due to service emergencies or is for the attachment of ancillary routine apparatus (such as terminals, drop wire drive hooks, lags, etc.).
- b. pole, conduit or right-of-way space shall be assigned to SWBT or AT&T for a period not to exceed 12 months. The 12 month period shall begin from the time the space is assigned and entered into the appropriate SWBT record. This "assigned" period applies to SWBT and AT&T equally.

SWBT witness Hearst proposed the following, alternative language for this section of the interconnection agreement:

SWBT and AT&T agree that:

- a. on receipt of license application and payment for estimated make-ready work, if any, SWBT will assign such poles, conduits, ducts and rights-of-way space to AT&T and shall not allow any use thereof by any party, including SWBT. AT&T's obligation to pay SWBT's license fees for such assigned space shall commence immediately upon such assignment. Pole, conduit and right-of-way space shall not be occupied by AT&T until such space has been assigned.
- b. pole, conduit or right-of-way space shall be assigned to SWBT or AT&T for a period not to exceed 12 months. The 12 month period shall begin from the time the space is assigned and entered into the appropriate SWBT record. This "assigned" period applies to SWBT and AT&T equally.

Findings and recommendation: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator finds that AT&T's proposed language is reasonable and should be adopted by the Commission.

V. Numbering Issues (Interim Number Portability)

Two issues relating to interim number portability (INP) were submitted to the arbitrator for resolution. The parties disagreed over: (1) the type of INP SWBT should be required to provide and (2) how the costs of providing INP should be recovered.

Summary of AT&T testimony regarding the type of INP: With respect to the type(s) of INP SWBT should be required to provide, AT&T witness Mark Lancaster testified regarding AT&T's recommendations for Interim Number Portability solutions and dialing parity in connection with the Interconnection Agreement.

AT&T is proposing the use of Remote Call Forwarding Index, Route Index Portability Hub (RI-PH), Directory Number Route Index (DN-RI), and Local Exchange Routing Guide (LERG) reassignment as the vehicles to let consumers take their numbers with them as they move to local service with AT&T. According to Mr. Lancaster AT&T was not interested in DID due to limitations which would make it unattractive to businesses.

Mr. Lancaster testified that Route Indexing, like RCF and DID, are internal switch routing methods which are all software-driven tools. These services are being offered around the country in conformance with the FCC Number Portability Order in Docket No. 95-116 ("FCC Number Portability Order").

According to Mr. Lancaster there is no reason to believe that technical feasibility problems exist given the fact that industry evidence indicates that these features are being implemented around the country.

Summary of SWBT testimony regarding the type of INP: On this INP issue, SWBT witness Curtis Hopfinger testified that SWBT would offer INP in compliance with the federal Act and the FCC Number Portability Order. These INP services include: INP-Remote, which is a form of Remote Call Forwarding (RCF) service, and INP-Direct, which uses Direct Inward Dialing (DID) technology. Mr. Hopfinger pointed out that AT&T, until it provides switch-based service, will not need INP as customers who purchase only SWBT's service on a resale basis from AT&T will be able to keep their existing numbers regardless.

Findings and Recommendations: Based upon the testimony, the federal Act and the applicable provisions of the FCC Number Portability Order, the Arbitrator finds that SWBT's proposal to offer Remote Call Forwarding as an INP solution complies with both the federal Act and the FCC Number Portability Order. The federal Act addresses number portability in two sections. In § 251(b)(2), all telecommunications carriers are required "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." In its order, at Paragraph 110, the FCC concluded that "... because currently, RCF and DID are the only methods technically feasible, we believe that use of these methods, in fact, comports with the requirements of the statute."

The Arbitrator, therefore, recommends that the Commission order SWBT to provide RCF as the initial INP solution, however, once the regional number portability group that is considering number portability issues completes its work, AT&T may seek another form of INP at that time.

Summary of AT&T testimony regarding INP cost issues: With respect to the cost issues associated with INP, AT&T witness Lancaster testified that after INP incremental costs are correctly identified, the next step in designing INP cost recovery is establishing a mechanism that is competitively neutral. AT&T recommends that the mechanism should limit the range of carriers to participating carriers. AT&T does not believe it is competitively neutral to include non-participating carriers in paying a portion of the costs of INP. For example, wireless carriers are not now required to provide number portability through INP methodology. If they are required to pay a portion of the costs through an allocation based on number of subscribers, then they are subsidizing local providers for a function from which only wireline customers benefit. In the same way, interexchange carriers (IXCs) do not profit from (nor cause) interim number portability, thus should not be included in cost recovery for INP. AT&T recommends use of the Active Lines Formula as a cost recovery mechanism. The identified incremental costs should be apportioned to each LEC according to the LEC's percentage of active lines to total lines in the service area. The recovery should be assessed each year in arrears, thus, no cost estimating is necessary. The formula would be:

$$\text{SWBT Annual INP TSLRIC} \times (\text{Active Carrier Lines/Active Industry Lines}) \\ = \text{Annual Charge Per Carrier.}$$

Summary of SWBT testimony regarding INP cost issues: On the INP cost issues, SWBT witness Hopfinger testified that SWBT believes the costs of providing INP should be recovered from the companies requesting the service. He noted that there is some confusion in the FCC order regarding whether INP is permanent number portability (PNP). He testified that the federal Act requires that the costs of providing PNP should be borne by all telecommunications providers on a competitively neutral basis, but that the FCC had applied this requirement, which Mr. Hopfinger believes should only apply to PNP, to INP as well. Mr. Hopfinger testified that several parties, including SWBT, had petitioned the FCC for reconsideration of its order in this respect, but that if the FCC Number Portability Order is upheld, SWBT would propose a cost recovery method based on Elemental Access Lines (EALs). Under this system, the cost of providing INP would be spread to all telecommunications carriers based on "elements" indicating the customers' presubscribed use of local lines in three different applications: (1) local exchange service; (2) intraLATA toll service and (3) interLATA toll service. A surcharge would be levied on all such elements and all end-user customers, regardless of local or long distance service provider, would then be assessed the same per-EAL charge, thus resulting in a competitively neutral cost recovery system in compliance with the federal Act and the FCC Number Portability Order.

In the event the arbitrator did not select SWBT's "EALs" formula for allocating INP costs, Mr. Hopfinger suggested that SWBT not immediately charge competitive LECs such as AT&T for INP, but instead track those costs until the motions to reconsider and/or appeals of the FCC Number Portability Order are disposed of and this Commission has an opportunity to conduct a separate proceeding to consider how to allocate the INP costs.

Finally, Mr. Hopfinger testified that under the terms of the FCC's Interconnection and Number Portability orders, TELRIC is the appropriate costing method for INP.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Number Portability Order, with respect to the issue of allocating the costs of providing INP, the Arbitrator finds that SWBT's proposed "EAL" method is reasonable and complies with the federal Act and the FCC Number Portability Order.

The Arbitrator finds that a TELRIC study, rather than the AT&T's proposal of TSLRIC, should be used as the basis for determining the INP costs that should be allocated to all telecommunications service providers (as they are defined in OAC 165:55-1-4) under SWBT's "EAL" method.

VI. Costing and Pricing Issues

A. Avoided Cost Wholesale Discount

Summary of AT&T testimony: AT&T's witness, Denise Crombie, recommended an avoided retail cost discount of 34.18% applicable to SWBT's local, toll and

private line services. Ms. Crombie conducted an AT&T avoided cost (AAC) study which she testified was in compliance with the Federal Act, the Oklahoma Administrative Code (OAC), and the FCC's August 8, 1996 First Report and Order (FCC Order). In addition, Ms. Crombie rebutted certain categories of cost that the FCC states are not presumptively avoidable by showing the costs can be reasonably avoided. Specifically, those costs are operator related costs, testing and plant administration, and depreciation expense pertaining to general support assets.

Ms. Crombie's rebuttal testimony focused on SWBT's Aggregate Avoided Retail Cost Study, and a Service by Service study presented by SWBT witness Barbara Smith. According to Ms. Crombie, the Service-by-Service study does not meet the requirements of the Federal Act, the OAC, or the FCC Order in key areas because of its definition of an avoided cost, the omission from the study of direct and indirect costs that will be avoided in a wholesale versus a retail environment, and an inappropriate use of avoided costs based on long run incremental costs (LRIC) rather than actual booked data. By using an incorrect definition of avoided costs, and excluding costs that can reasonably be avoided, SWBT understates the avoided costs and the subsequent discounts for the services in the study.

Ms. Crombie submitted rebuttal testimony and exhibits to Ms. Smith's aggregate avoided cost study. According to Ms. Crombie, Ms. Smith included revenues in the calculation that would not be subject to avoided cost discounts since they are not applicable to services subject to resale to end-users who are not telecommunication carriers. The SWBT study period includes to low an avoided expense amount for uncollectibles (account 5301). Ms. Smith's aggregate study does not include costs for other categories which SWBT will avoid in the wholesale environment such as a portion of testing and plant administration (Account 6533 and Account 6534), operator systems (Account 6220), depreciation (Account 6560), and return and taxes. SWBT also ignored the fact that there are accounts which are presumptively 100% avoided such as Product Management (Account 6611), Product Advertising Costs (Account 6613), Customer Services (Account 6623), and Sales (6612). Ms. Smith incorrectly assumed that the FCC Order mandates this number be 90%.

Summary of SWBT testimony: SWBT witness Barbara Smith testified concerning the avoided cost discount to be applied to SWBT's retail rate to determine the wholesale rate for services resold to AT&T. She presented a service-by-service avoidable cost study as the basis for the wholesale discounts. These discounts range from -2% to 14%. The avoided costs are determined as (1) the costs of providing the service at retail which cease to be incurred due to the wholesaling of that service (2) minus the costs of wholesaling the given service to resellers. Ms. Smith also testified regarding her calculations of an aggregate discount to use as a comparison to Ms. Crombie's AT&T study. The study produced an aggregate discount of 17.5% by following the methodology outlined in the FCC Order. She testified that there are numerous errors in AT&T's avoidable cost analysis and that the Commission should reject it.

SWBT witness Daniel Jackson testified that it would not be appropriate to apply a full avoided cost discount to all services that are available for resale. For example, he testified that SWBT should not be required to apply a discount to its Customer Owned Pay Telephone (COPT) service (which is pending before the Commission) or to services which are priced on a case-by-case, customer-specific basis to recover actual costs incurred plus contribution. An example of such a service is SWBT's Plexar Custom service. Mr. Jackson testified that if a cost is not incurred, it is not included in the price of such services. Therefore, there is no discount that can be applied to reflect avoided costs, since if any cost is avoided it would not be included in the price of service in the first place.

Findings and Recommendations: Based upon the testimony, the federal Act and applicable provisions of the FCC Order, the Arbitrator recommends that the Commission adopt in part the aggregate cost study submitted by Ms. Smith in her rebuttal testimony with changes as advocated by Ms. Crombie in Exhibit 130. Specifically, the Arbitrator recommends jurisdictionalizing the 1995 ARMIS amounts which will result in direct avoidable and marketing expenses (Account Nos. 6611, 6612, and 6613) of \$19,622,000. Total service expenses (Account Nos. 6621, 6622, and 6623) will be \$53,330,000.

The Arbitrator further recommends that the Commission find there will be avoidable expenses for testing (Account No. 6533) and Plant Operation Administration (Account No. 6534) of \$3,547,000 and \$3,278,000 respectively, for a total direct avoidable expenses of \$79,777,000.

Jurisdictional indirect avoidable expenses of \$31,744,000 are calculated by using an indirect factor of avoided direct costs divided by total direct